

EXHIBIT C
(January 6, 2022 Draft Joint Rule 26(f) Report)

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE CONFERENCE OF THE NAACP, and

Taiwan Scott, on behalf of himself and all other similarly situated persons,

Plaintiffs,

v.

HENRY D. MCMASTER, in his official capacity as Governor of South Carolina; THOMAS C. ALEXANDER, in his official capacity as President of the Senate; LUKE A. RANKIN, in his official capacity as Chairman of the Senate Judiciary Committee; JAMES H. LUCAS, in his official capacity as Speaker of the House of Representatives; CHRIS MURPHY, in his official capacity as Chairman of the House of Representatives Judiciary Committee; WALLACE H. JORDAN, in his official capacity as Chairman of the House of Representatives Elections Law Subcommittee; HOWARD KNAPP, in his official capacity as interim Executive Director of the South Carolina State Election Commission; JOHN WELLS, Chair, JOANNE DAY, CLIFFORD J. EDLER, LINDA MCCALL, and SCOTT MOSELEY, in their official capacities as members of the South Carolina Election Commission,

Defendants.

Case No. 3-21-cv-03302-JMC-TJH-RMG

**PARTIES' JOINT RULE 26(f)
REPORT
THREE-JUDGE PANEL**

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Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and Local Rule 26.03, the following counsel conducted a Rule 26(f) meeting by telephone on December 30, 2021:

Christopher J. Bryant Somil B. Trivedi John S. Cusick John A. Freedman	Counsel for Plaintiffs
Thomas Limehouse Grayson Lambert	Counsel for Defendant Henry McMaster
Mark C. Moore Jennifer J. Hollingsworth Andrew A. Mathias	Counsel for Defendants James Lucas, Chris Murphy, Wallace Jordan
Robert E. Tyson Jr. John M. Gore	Counsel for Defendant Thomas Alexander
Jane Trinkley M. Elizabeth Crum	Counsel for Defendants Howard Knapp, John Wells, Joanne Day, Clifford Edler, Linda McCall, and Scott Moseley

The Parties hereby submit this joint report and proposed discovery plan concerning matters set forth in Federal Rule of Civil Procedure 26(f), all of which were addressed during the Parties' telephone conference.

**I. NATURE AND BASIS OF CLAIMS AND DEFENSE & LOCAL RULE 26.03
SHORT STATEMENT OF THE FACTS**

A. Plaintiffs

Plaintiffs South Carolina State Conference of the NAACP and Taiwan Scott (collectively, "Plaintiffs") challenge the constitutionality of South Carolina's recently enacted House Bill 4493 ("H. 4493"), which sets the district lines for the South Carolina House of Representatives following the 2020 decennial Census.

Plaintiffs are challenging 28 specific House Districts—Nos. 7, 8, 9, 11, 41, 43, 51, 54, 55, 57, 59, 60, 63, 67, 70, 72, 73, 74, 75, 76, 77, 78, 79, 90, 91, 93, 101, 105 (the "Challenged Districts")—as unconstitutional racial gerrymandering because they use race as a predominant factor in a manner not narrowly tailored to comply with Section 2 of the VRA or any other

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compelling government interest. This claim is brought for violations of the Fourteenth Amendment under 42 U.S.C. § 1983 for injunctive and declaratory relief.

Plaintiffs also allege that the Challenged Districts are a product of intentional racial discrimination because the creation of Challenged Districts was motivated, at least in part, by a discriminatory purpose. This claim is brought for violations of the Fourteenth and Fifteenth Amendments under 42 U.S.C. § 1983 for injunctive and declaratory relief.

Finally, Plaintiffs challenge the Defendants prolonged delay and failure (to date) to adopt a plan governing U.S. Congressional districts. The continued delay in adopting a Congressional map infringes on Plaintiffs' First Amendment rights to association because it restricts their and their members' ability to assess candidate positions and qualifications, advocate for their preferred candidates, and associate with like-minded voters. This claim is brought for violations of the First and Fourteenth Amendments under 42 U.S.C. § 1983 for injunctive and declaratory relief.

II. POSSIBILITIES FOR PROMPTLY SETTLING OR RESOLVING THE CASE

The Parties agree that complete settlement is unlikely at this time. The Parties also agree that mediation or other forms of alternative dispute resolution are not likely to be helpful.

III. PROPOSED SCHEDULE

The Parties have agreed to the following proposed schedule (except where noted):

Deadline or Event	Agreed Dates
Exchange of Initial Disclosures	January 7, 2022
Plaintiffs' Expert Disclosures	January 7, 2022
Defendants' Expert Disclosures	January 12, 2022
Plaintiffs' Expert Reports Due	January 24, 2022
Defendants' Expert Reports Due	February 1, 2022
Rebuttal Expert Reports Due	February 7, 2022
Fact and Expert Discovery Deadline	February 11, 2022

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Pre-trial Disclosures (joint pre-trial report, exhibit lists, witness lists, dispositive motions, motions in limine, stipulations)	February 18, 2022 [Plaintiffs' Preference – this date provides more time to prepare objections and oppositions to motions] February 21, 2022 [Defendants' Preference – this date provides more time to prepare dispositive motions and motions in limine]
Objections to Witness and Exhibit lists, oppositions to in limine motions	February 24, 2022
Final Pre-Trial Conference	February 28, 2022
Trial begins	February 28, 2022
Proposed Findings of Fact and Conclusions of Law	7 calendar days after conclusion of trial

IV. DISCOVERY PLAN

The Parties propose this discovery plan:

1. Initial Disclosures: The Parties agree that initial disclosures in accordance with Rule 26(a)(1) and Local Rule 26.03 should be made in this case. The Parties have agreed to exchange initial disclosures on January 7, 2022.

2. Subjects of Discovery: Plaintiffs anticipate that discovery will be needed on at least the following subjects: data considered and used in the redistricting process; the consideration and development of criteria used for drawing House maps; the process of drawing House maps, including any communications or directions provided to the mapmakers, draft maps developed or considered, data analyzed, and communications (including with external parties) about the redistricting process, draft maps, criteria, or South Carolina's history of redistricting since passage of the Voting Rights Act; the process of receiving and incorporating public input during the redistricting process; South Carolina's history of discrimination against Black people and other minority groups, including but not limited to the redistricting context; any analysis prepared or considered during development of the plan or the redistricting process, including but

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not limited to any analysis of racially polarized voting, performance, compactness, jurisdiction or precinct splits, location of incumbents.

In addition to these subjects, Plaintiffs require discovery on the subjects listed in their First Sets of Requests for Production, First Set of Interrogatories, and subpoenas, as well as future discovery requests. Plaintiffs also anticipate depositions to further develop the factual record for trial. Some of the information sought via discovery may also be addressed via stipulations between the Parties.

[DEFENDANTS' STATEMENT OF SUBJECTS OF DISCOVERY]

3. Electronic Discovery: The Parties expect that discovery will involve collection and production of electronically storied information (“ESI”): (1) Disclosure or production of electronically stored information will generally be limited to data reasonably available to the Parties in the ordinary course of business; (2) the Parties do not anticipate seeking data beyond what is reasonably available in the ordinary course of business; (3) the Parties agree to produce electronically stored information in accordance with the “Production of ESI Protocols” attached to this report as Exhibit A; (4) the Parties represent that they have taken reasonable measures to preserve potentially discoverable data from alteration or destruction; (5) the Parties will comply with Federal Rule of Civil Procedure 26(b)(5)(B) regarding the inadvertent production of privileged information; and (6) the Parties do not at this moment anticipate that any other problems will arise in connection with electronic or computer-based discovery. The Parties have agreed to

4. Timing of Discovery: The Parties agree that discovery in this matter should be conducted in an expedited manner, with a fact and expert discovery deadline of February 11,

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2022. To facilitate expedited discovery in this matter, [the Parties agree/Plaintiffs propose] the following modifications to the standard Rules of Civil Procedure and Local Rules:

a. Expedited Objection and Response Deadlines: Any objections to discovery shall be served within 5 business days of receipt of the discovery request. Substantive responses shall be provided within 10 days of receipt of the discovery request.

b. Condensed and Expedited Briefing: Unless otherwise permitted or ordered by the Court, the Plaintiffs and House Defendants agree to limit motions concerning discovery in this matter (including, but not limited to, motions to compel or motions for protective orders) to 5 pages, excluding the caption and signature pages. Opposition briefs shall be of the same length and filed within 48 hours.

c. Deadline to Serve Written Discovery: Consistent with the foregoing and Local Rule 16.02(D)(1), written discovery requests shall be served no later than January 27, 2022.

5. Forms of Discovery: The Parties anticipate all forms of written discovery and depositions may be appropriate as provided by the Federal Rules of Civil Procedure. Plaintiffs anticipate that certain materials produced will be in the form of electronic or computer-based media, including data, spreadsheets, databases of voter information, and electronically-stored documents and emails.

6. Limitations on Discovery: Except as noted below, the Parties at this time do not seek any restrictions on discovery beyond the limitations set forth in this agreement or the Federal Rules of Civil Procedure; however, the Parties agree to confer in good faith as needed regarding any proposed limitations on discovery.

a. The Parties agree that each party will issue no more than twenty-five (25) interrogatories to each Defendant or to each Plaintiffs.

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- b. The Parties agree, to the extent practicable, that they will coordinate depositions among the Parties so that each deponent need only appear once.
- c. [The Parties agree/the Plaintiffs propose] that each side (Plaintiffs collectively and Defendants collectively) take no more than 15 depositions, including Rule 30(b)(6) and expert witness depositions, unless expert disclosures or discovery reveal the necessity for additional depositions

V. OTHER LOCAL RULE 26.03 QUERIES

1. Fact Witnesses: The Parties will identify the names of individuals likely to have discoverable information in the Rule 26(a)(1) initial disclosures and will disclose trial witnesses in accordance with the schedule proposed above.

2. Expert Witnesses: The Parties will provide Rule 26(a)(2) expert disclosures in accordance with the schedule proposed above.

3. Claims and Defenses:

Fourteenth Amendment -- racial gerrymandering in violation of the Equal Protection Clause of the Fourteenth Amendment and 42 U.S.C. § 1983. *See, e.g., Cooper v. Harris*, 137 S.Ct. 1455 (2017); *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 797 (2017); *Shaw v. Reno*, 509 U.S. 630, 642-43 (1993).

Fourteenth Amendment -- intentional discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment and 42 U.S.C. § 1983. *See, e.g., Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977); *NC State Conference of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

First Amendment -- infringement of right of association in violation of the First and Fourteenth Amendments and 42 U.S.C. § 1983. *See, e.g., Nat'l Ass'n for Advancement of Colored*

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People v. State of Ala. ex rel. Patterson, 357 U.S. 449, 460 (1958); *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 216 (1986); *6th Cong. Dist. Republican Comm. v. Alcorn*, 913 F.3d 393, 401 (4th Cir. 2019).

4. Scheduling: Scheduling is addressed in the proposed schedule above.

5. Other Special Circumstances:

Various counsel have trial and other commitments prior to trial in this matter. All counsel who will participate in trial are available starting February 28, 2022.

The Parties agree that all proceedings, including but not limited to depositions and trial, will be conducted remotely if necessary to protect individuals from COVID-19; the Parties will work together and with the Court in this regard.

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Dated: January __, 2022

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Respectfully submitted,

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* Motion for admission *Pro Hac Vice*
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**Pro hac vice* application forthcoming

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Exhibit A: PRODUCTION OF ESI PROTOCOLS

A. Format

The parties will produce ESI in a litigation database ready format including single page images, searchable text files, native files and Relativity database load files. Images should be bates numbered single-page, black and white, TIFF Group IV, 300 DPI TIFF images with the exception of spreadsheet type files, source code, audio, and video files, and other file types that cannot be rendered into a usable printed form, which shall be produced in native format. If an original document contains color and the color is necessary to review a document, it should also be produced in native format or as single-page, 300 DPI JPG images with JPG compression and a high quality setting as to not degrade the original image. TIFFs/JPGs will show any and all text and images which would be visible to the reader using the native software that created the document. Document level text file should be provided containing original extracted text or OCR text when original text is not available or when document contains redactions. Each document will be produced in its entirety, with attachments and enclosures. Documents not otherwise responsive will be produced if attached to a responsive document.

If a document is produced in native, a single page bates stamped image slip-sheet stating the document has been produced in native format will also be provided. Each native file should be named according to the Bates number it has been assigned, and should be linked directly to its corresponding record in the load file using the NATIVELINK field. To the extent that either party believes that specific documents or classes of documents, not already identified within this protocol, should be produced in native format, the parties agree to meet and confer in good faith.

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B. De-Duplication

Each party shall remove exact duplicate documents based on MD5 or SHA-1 hash values, at the family level. Attachments should not be eliminated as duplicates for purposes of production, unless the parent email and all attachments are also duplicates. Parties agree that an email that includes content in the BCC or other blind copy field shall not be treated as a duplicate of an email that does not include content in the content in those fields, even if all remaining content in the email is identical. Removal of near-duplicate documents and email thread suppression is not acceptable. De-duplication will be done across the entire collection (global de-duplication) and the Custodian field will list each Custodian, separated by a semi-colon, who was a source of that document. Should the custodian metadata field produced become outdated due to rolling productions, an overlay file providing all the custodians for the affected documents will be produced prior to substantial completion of the document production.

C. Metadata

All ESI will be produced with a delimited, database load file that contains the metadata fields listed in Table 1, attached hereto. The metadata produced should have the correct encoding to enable preservation of the documents' original language.

D. Compressed Files Types

Compressed file types (*i.e.*, .ZIP, .RAR, .CAB, .7Z) should be decompressed so that the lowest level document or file is extracted.

E. Structured Data

To the extent a response to discovery requires production of electronic information stored in a database, the parties will discuss methods of production best providing all relevant information, including but not limited to duplication of databases or limited access for the purpose of generating reports. Parties will consider whether all relevant information may be provided by

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querying the database for discoverable information and generating a report in a reasonably usable and exportable electronic file. A document reference sheet shall be provided to describe the purpose of the database and meaning of all tables and column headers produced.

F. Encryption

To maximize the security of information in transit, any media on which documents are produced may be encrypted. In such cases, the producing party shall transmit the encryption key or password to the receiving party, under separate cover, contemporaneously with sending the encrypted media.

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ATTORNEY WORK PRODUCT

Table 1 -- Metadata Fields

Field Name	Example/Format	Field Description
ProdBegBates	ABC0000001 (Unique ID)	The Document ID associated with the first page of a document.
ProdEndBates	ABC0000003 (Unique ID)	The Document ID associated with the last page of a document.
ProdBegAttach	ABC0000001 (Unique ID Parent-Child Relationships)	The Document ID associated with the first page of the parent document.
ProdEndAttach	ABC0000008 (Unique ID Parent-Child Relationships)	The Document ID associated with the last page of the last attachment.
Production_Volume	PROD001	Production volume name.
Document Category	Email, Edoc, Attach	The record type of a document.
Custodian	Smith, Joe	Custodian of document.
All Custodians	Smith, Joe; Brown, Jane	All of the custodians of a document from which the document originated, separated by semicolons
Sort Date	MM/DD/YYYY HH:MM	The date taken from the Email Sent Date, Email Received Date, or Last Modified Date (in order of precedence), repeated for a parent document and all children items to allow for date sorting.
Sent Date/Time	MM/DD/YYYY HH:MM	The date on which an email message was sent.
Received Date/Time	MM/DD/YYYY HH:MM	The date and time at which an email message was received.
Created Date/Time	MM/DD/YYYY HH:MM	The date and time at which a file was created.
Last Modified Date/Time	MM/DD/YYYY HH:MM	The date and time at which changes to a file were last saved.
Meeting Start Date/Time	MM/DD/YYYY HH:MM	The date and time at which a meeting item in Outlook or Lotus Notes started.
Meeting End Date/Time	MM/DD/YYYY HH:MM	The date and time at which a meeting item in Outlook or Lotus Notes ended.
Logical Path	i.e. /JsmithPC/Users/Jsmith/Desktop i.e. /JSmith.pst/Inbox	Data's original source full folder path
Author	jsmith	The name of the original composer of document or the sender of an email message.
Last Saved By	jsmith	The internal value indicating the last user to save a file.

Email From	Joe Smith <jsmith@email.com>	The name (when available) and email address of the sender of an email message.
Email To	Joe Smith <jsmith@email.com>; tjones@email.com	The name(s) (when available) and email address(es) of the recipient(s) of an email message.
Email Cc	Joe Smith <jsmith@email.com>; tjones@email.com	The name(s) (when available) and email address(es) of the Carbon Copy recipient(s) of an email message.
Email Bcc	Joe Smith <jsmith@email.com>; tjones@email.com	The name(s) (when available) and email address(es) of the Blind Carbon Copy recipient(s) of an email message.
Email Subject		The subject of the email message.
Message Class	Message, Appointment, Contact, Task, etc.	An The type of item from an email client (e.g., email, contact, calendar, etc.).
Email Message ID	0E5698D558B22879524F433@abc.email.net	The message number created by an email application and extracted from the email's metadata.
Importance	Normal, Low, High	The notation created for email messages indicating a higher level of importance than other email messages added by the email originator.
Delivery Receipt		The yes/no indicator of whether a delivery receipt was requested for an email.
Attachment Count	Numeric	The number of files attached to a parent file.
Attachment List		The attachment file names of all child items in a family group, delimited by semicolon. This is present only on parent items.
File Extension		The three (or more) character extension of the file that represents the file type to the Windows Operating System (e.g., PDF, DOC, TXT, etc.).
File Name	Document Name.docx	The original name of the file.
File Type	Adobe Portable Document Format, MS Word 97, Outlook Message File	The description of the file type to the Windows Operating System. For example, Adobe Portable Document Format, Microsoft Word 97 – 2003 Document, or Microsoft Office Word Open XML Format.

File Size	Numeric	The decimal number indicating the size in bytes of a file.
MD5 Hash		The identifier of an electronic record that can be used for deduplication and authentication generated using the MD5 hash algorithm.
Conversation Family	The relational field for conversation threads. This is a 44-character string of numbers and letters that is created in the initial email.	The relational field for conversation threads. This is a 44-character string of numbers and letters that is created in the initial email.
Production Has Redactions		The yes/no indicator of whether a document contains a redaction.
Production Slip Sheet		Indicates presence of an image slips sheet and the slip sheet type.
Production Branding		Confidentiality brand.
File Path	.\\NATIVES\\ABC000001.doc	Path to a native copy of a document.
Text Precedence	.\\TEXT\\ABC000001.txt	Path to the full extracted text of the document.